

## **Board Administration and Regulatory Coordination Unit**

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### **Division 3. Air Resources Board**

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### **Chapter 1. Air Resources Board**

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### **Subchapter 1.25. Administrative Procedures–Hearings**

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### **Article 3. Administrative Hearing Procedures for Petitions for Review of Complaints**

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### **Subarticle 5. Prehearing Procedures**

#### **§ 60065.25. Settlement Agreements and Consent Orders.**

(a) At any time before a final decision of the hearing officer, the complainant and the respondent may settle an action, in whole or in part, by agreeing upon a civil penalty, with or without conditions or other appropriate remedy.

(b) The parties may request the assistance of the hearing office in their attempts to settle the matters at issue. Upon receiving such a request, the hearing office may assign a settlement hearing officer, who is not the same hearing officer that has been assigned, to hear the merits of the case, unless the parties specifically request in writing the assignment of the latter hearing officer.

(c) The parties shall memorialize any agreement in writing.

(d) In a complaint proceeding, the hearing officer assigned to hear the merits of the case, shall thereafter enter a consent order in accordance with the terms of the settlement agreement. Such consent order is not subject to further review by the agency or a court.

(e) In a petition for review proceeding, if the parties resolve all issues raised by the petition, the petitioner shall agree to withdraw the petition and the case shall be dismissed.

(f) If the filing of the consent order pursuant to paragraph (d) of this section or the settlement in the petition for review proceeding does not wholly conclude the action, the hearing officer assigned to hear the merits of the case shall promptly inform the parties of the schedule of the remaining proceedings.

(g) Unless the parties have otherwise consented to use the hearing officer assigned to hear the merits of the case in settlement discussions, settlement discussions or offers of compromise regarding unresolved issues shall not be discussed with that hearing officer. Settlement discussions or offers of compromise shall also not be made part of the record of the proceedings.

NOTE: Authority cited: Sections 39600, 39601, 43028 and 43031(a), Health and Safety Code. Reference: *Mathews v. Eldridge*, 424 U.S. 319 (1976); Sections 43028 and 43031(a), Health and Safety Code; and Section 11415.60, Government Code.

REFERENCE